DOCUMENT RESUME

ED 216 485 EC 142 439

TITLE	Questions and Answers about Serving the Educationally Handicapped in New York State. Number 3: Program Placement, Planning Conference and Annual Review.
INSTITUTION	New York State Education Dept. Albany. Office for the Education of Children with Handicapping Conditions.
PUB DATE	Jan 82
NOTE	12p.
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Delivery Systems; *Disabilities; Elementary Secondary Education; *Individualized Education Programs; State Legislation; *State Programs; *Student Placement
IDENTIFIERS	*New York

ABSTRACT

The paper addresses questions pertaining to the kinds of programs and placements which may be recommended in Phase I of the individualized education program (IEP), the development of Phase II in a planning conference, and the annual review of the IEP by the (New York) Committee on the Handicapped. Topics covered include the following: types of related services, resource room programs, special classes, class size, placement criteria, procedures for IEP development, the IEP planning conference, and the annual review. (SB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED216485

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
This document has been reproduced as received from the person or organization originating it.
Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

4.24
EC
0109

Questions and Answers

about

SERVING THE EDUCATIONALLY HANDICAPPED

in New York State

NUMBER 3

PROGRAM PLACEMENT, PLANNING CONFERENCE AND ANNUAL REVIEW

The development of the Individualized Education Program has two phases. Phase I of the IEP, developed by the Committee on the Handicapped, is the basis for recommending any one or combination of special education programs and for determining the placement of a pupil. Phase II is developed and completed in a planning conference including special service providers and the pupil's parents.

This publication addresses several questions pertaining to the kinds of programs and placements which may be recommended in Phase I of the IEP, the development of Phase II in a planning conference and the annual review of the IEP by the Committee on the Handicapped, based on the new Part 200 of the Regulations of the Commissioner, effective July 1, 1982.

The University of the State of New York
THE STATE EDUCATION DEPARTMENT
Office for Education of Children with Handicapping Conditions
Albany, New York 12234

January 1982

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY
Jan Miller
TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

EC142439

THE UNIVERSITY OF THE STATE OF NEW YORK

Regents of The University (with years when terms expire)

1988	Willard A. Genrich, Chancellor, LL.B., L.H.D., LL.D., Litt.D., D.C.S., D.C.L.	Buffalo
1988	J. Edward Meyer, Vice Chancellor, B.A., LL.B.	Chappaqua
1986	Kenneth B. Clark, A.B., M.S., Ph.D., LL.D., L.H.D., D.Sc. ..	Hastings on Hudson
1983	Harold E. Newcomb, B.A., LL.D.	Owego
1982	Emlyn I. Griffith, A.B., J.D.	Rome
1983	Mary Alice Kendall, B.S.	Rochester
1984	Jorge L. Batista, B.A., J.D., LL.D.	Bronx
1986	Laura Bradley Chodos, B.A., M.A.	Vischer Ferry
1987	Martin C. Barell, B.A., I.A., LL.B.	Kings Point
1984	Louise P. Matteoni, B.A., M.A., Ph.D.	Bayside
1987	R. Carlos Carballada, B.S., L.H.D.	Rochester
1988	Floyd S. Linton, A.B., M.A., M.P.A., D.C.L.	Miller Place
1988	Salvatore J. Sclafani, B.S., M.D.	Staten Island
1982	Mimi Lieber, B.A., M.A.	New York
1985	Shirley C. Brown, B.A., M.A., Ph.D.	Albany

President of The University and Commissioner of Education
Gordon M. Ambach

Executive Deputy Commissioner of Education
Robert J. Maurer

Acting Deputy Commissioner for Elementary, Secondary and Continuing Education
Gerald L. Freeborne

Assistant Commissioner for Education of Children with Handicapping Conditions
Louis Grumet

Director, Division of Development Support Services
Richard G. Hehir

Chief, Bureau of Program Development
Lawrence C. Gloeckler

PROGRAM AND PLACEMENT ALTERNATIVES

What special education programs and services must school districts make available to handicapped pupils?

Under Section 4401 of the Education Law, the following special programs and services are listed:

- Related Services
- Resource Room Programs
- Special Class Programs
- Individual Instruction in the Home or Hospital

The district may also provide transitional support to the teacher of a handicapped pupil who is transferring to a regular program or to a program or service in a less restrictive environment.

What are related services?

Related services are those support services which are provided to help a handicapped pupil benefit from regular or specialized instruction. The following related services are listed in Section 4401 of the Education Law.

- Speech Pathology
- Audiology
- Counseling
- Physical Therapy
- Occupational Therapy
- Medical Services for Diagnostic and Evaluative Purposes
- Psychological Services
- Other Support Services

Can a related service be the only special education a pupil receives?

Yes. However, the service must be related to the handicapped pupil's educational needs or programs. Such a service must be recommended by the Committee on the Handicapped and be included on Phase I of the IEP.

Is family counseling an approvable related service?

Yes, provided it is appropriate to the educational needs of the pupil as stated in Phase I of the IEP.

Must related services be provided to students receiving home instruction?

Any related service recommended by the COH and approved by the Board of Education and parent must be provided to handicapped pupils regardless of program placement.

What is a resource room program?

A resource room program is a special education program for handicapped pupils in need of specialized supplementary instruction in an individual or small group setting for not more than 50% of any school day and not less than five hours per week.

What is the maximum caseload of a teacher of a resource room program in which handicapped pupils are enrolled?

A maximum caseload of handicapped students in a resource room program is 20. The additional number of nonhandicapped pupils which may be assigned to a resource room program teacher is not limited by regulation.

May both handicapped and nonhandicapped students be in the same instructional group in a resource room?

Yes, provided that the instructional groups do not exceed five students and that all students have similar instructional needs.

What is a special class?

A class consisting entirely of handicapped pupils who have been grouped together because of their similar educational needs for the purpose of receiving specially designed instruction for a minimum of 50% of the school day. The maximum class size options which may be considered are defined in Section 200.6 of the Regulations of the Commissioner of Education.

What standards are used in determining class size and composition of special classes?

The intensity of individual needs in four areas of educational performance of enrolled pupils are used to determine special class size and composition. These areas are:

- Academic or educational achievement and learning rates,
- Social development,
- Physical development,
- The management needs of the pupil in the classroom.

May a self-contained special class program be provided to a student in several classrooms, with several teachers (departmentalized), or must a self-contained special class be provided in one classroom by one teacher?

A self-contained special class program may be departmentalized with different teachers and different classrooms. However, all teachers must be appropriately certified and class sizes and age ranges must be consistent with the Commissioner's Regulations.

May special occupational education be included as part of a self-contained special class program?

Yes, when the occupational education is specially designed instruction and is provided by a certified occupational education teacher with consultation provided by a teacher certified in the appropriate area of special education.

What is the total possible teaching load for a teacher of students in a self-contained classroom when these students all attend occupational education for one-half the day?

Maximum total teaching load could be 24 students. A special class by definition has students in attendance for 50% or more of the school day and has a maximum class size of 12 pupils. The teacher could have two classes of pupils; one in the morning and one in the afternoon.

Some districts operate classes in which students combine 50% of the day in a special class with 50% of the day in an occupational education program. This model would allow one group of 12 secondary special class students to attend a morning special education class while another group of 12 special class students attend a morning occupational education program. The two groups of 12 students would exchange programs at the midpoint of the day.

What is the age-range requirement for a special class consisting of handicapped pupils in which some are over 16 years old and some are under 16?

The age-range requirement is 36 months for pupils under 16. This age range was established to meet the needs of younger children. If there are children younger than 16 and older than 16 in a special class, the 36 month range would be required to carry out the intent of the Regulations.

Where may special services and programs be provided?

Special services may be provided at the following places:

1. The home school district
2. Another school district.
3. A Board of Cooperative Educational Services (BOCES).
4. State-operated or State-supported schools for the blind, deaf or severely physically handicapped.
5. In-state private residential and nonresidential schools which have been approved by the Commissioner.
6. Out-of-state private residential and nonresidential schools which have been approved by the Commissioner.
7. A residential facility under the jurisdiction of another State agency.
8. The State University of New York Binghamton Children's Unit.
9. The pupil's home or in a hospital.

Can a Committee on the Handicapped recommend placement of a handicapped child in a BOCES outside the component district's service region?

Yes. However, the district may not contract directly with that BOCES. The school district must contract with the BOCES which serves the area in which the district is located. This BOCES may in turn contract with the recommended BOCES to provide the required program.

Under what conditions may a school district place a handicapped child in an approved private school in New York State?

A pupil may be placed in an approved private school in New York State if:

- The placement is determined to be the least restrictive environment for the pupil's needs.
- The Committee on the Handicapped (COH) recommends an approved school.
- A request for approval on the appropriate New York State forms is sent through the Regional Associate to the Office for Education of Children with Handicapping Conditions (OECHC).
- Placement is approved by the Regional Associate.
- The parent or guardian has given written consent to the provision of special education.
- The Board of Education contracts with the approved New York State private school.

Under what conditions may a handicapped pupil be placed in an approved out-of-state facility?

The pupil may be placed in an approved out-of-state facility if:

- No appropriate in-state placement can be found closer to home,
- Five appropriate schools within New York State refuse to accept the pupil,
- The local school district sends appropriate documentation through the Regional Associate to OECHC,
- An approved out-of-state nonpublic school accepts the child,
- The parent or guardian has given written consent to the provision of special education,
- The Board of Education contracts with the approved out-of-state school.

Under what conditions may special education be provided in the home or hospital?

When a pupil is identified as handicapped by the COH and is home or hospital bound, the school must provide recommended special instruction for a minimum of five hours per week at the elementary level and 10 hours per week at the secondary level.

PROGRAM AND PLACEMENT RECOMMENDATIONS

What is an IEP?

An Individualized Education Program (IEP) is a written plan which specifies the special education program and services to be provided to meet the unique educational needs of a pupil with a handicapping condition. The IEP is developed in two phases; Phase I by the Committee on the Handicapped and Phase II in a planning conference by the pupil's special education teacher(s) and other persons, including the parent and the pupil where appropriate.

How are Individualized Education Programs for handicapped children developed?

The process of developing IEPs for handicapped children is as follows:

- Referral of a pupil thought to be educationally handicapped to the COH;
- Evaluation of a pupil by the COH to determine eligibility, classification and educational needs;
- Recommendation by the Committee on the Handicapped to the Board of Education for the provision of special education programs and services to the pupil (IEP-Phase I);
- Arrangement for the pupil's entrance and continued assessment in the recommended educational setting;
- A Planning Conference for the completion of the IEP (IEP-Phase II);
- IEP Implementation and Annual Review.

How much time does a district have to complete the sequence of events from the date of referral to the completion of the IEP?

Three stages in the sequence of events must be completed within 30 school days each.

- The time period from the date a referral is received by the district to the COH's recommendation for special education program, placement and services may not exceed 30 school days.
- The time period from the date of the COH's recommendations to the Board of Education to the date upon which special programs and services begin may not exceed 30 school days.

- The time period from the date of the child's entry into special education to the completion of Phase II of the IEP in a planning conference may not exceed 30 school days.

What does Phase I of the IEP include?

Phase I of the IEP forms the basis for the COH recommendation to the Board of Education for program placement for a pupil with a handicapping condition. It includes sections related to each of the following:

- Present Levels of Educational Performance
  - Achievement/Learning Rate
  - Social Development
  - Physical Development
  - Management Needs in the Classroom.
- Classification.
- Annual Goals.
- Special Programs and Services: Extent of participation in regular and occupational education, where appropriate.
- Special Class Size, if appropriate.
- Specialized or Adapted Equipment.
- Alternative Testing Techniques.
- Projected date for initiation of services, amount of time per day and date for review of pupil's status.

What occurs during the second 30 day timeframe?

During these 30 days:

- The Board of Education acts upon the recommendation of the Committee on the Handicapped.
- The Phase I of the IEP and other information relevant to program preparation for the child is transmitted to the special education providers.
- Parental consent for the initial provision of special education is sought by the Committee on the Handicapped.
- The pupil enters the recommended program for continued assessment and evaluation.

What occurs during the third 30 day timeframe?
During these 30 days:

- The pupil receives the approved special education programs and services,
- The personnel providing special education assess specific objective needs of the pupil in the class,
- The planning conference is conducted to complete Phase II,
- The IEP, with Phase II completed, is forwarded to the Committee on the Handicapped.

Who can change Phase I of the IEP?
A change in Phase I would require a recommendation by the Committee on the Handicapped of the pupil's school district of residence. These changes may be made only by the Board of Education of the pupil's school district of residence and requires notice to the parent prior to action.

PHASE II OF THE IEP

What is Phase II of the IEP? What does Phase II include?
Phase II of the IEP is developed at a planning conference conducted within 30 days of the time a pupil enters a special education program and reviewed at least once a year thereafter. The Phase II written document is based upon Phase I and includes:

- A statement regarding short-term instructional or behavioral objectives, consistent with annual goals.
- Appropriate objective criteria, evaluation procedures and schedules for determining if objectives are being met.

Who is responsible for Phase II of the IEP?
The teachers who provide the special education have this responsibility. In the case of occupational subjects, the provider of instructional or curriculum modifications prepares Phase II of the IEP.

Who participates in the IEP planning conference?

- The pupil's teacher,
- The pupil, when appropriate,
- The parent or legal guardian,
- A representative of the school or agency providing the program who is qualified to teach or supervise special education,

- Other individuals at the discretion of the parent or agency providing the program,
- If the pupil is not in a district program, a representative of the home school district shall be invited to attend,
- A member of the evaluation team who tested the child or someone knowledgeable about the procedures used with the child must attend the planning conference for a pupil being placed for the first time,
- An interpreter may accompany the parent to allow communication in the parent's dominant language.

Is the school district required to provide an interpreter for the parent at the IEP planning conference?

The district must afford all parties the opportunity to participate in the planning conference. If the parent or other parties at the conference need an interpreter, the district must provide one.

Must the parent sign the IEP when the pupil is to receive special education for the first time or at the annual review of the pupil's program?

There is no requirement in statute or regulation for a parent's signature on the IEP. Local procedures may require that parents sign the form to document their participation at the planning conference.

Must the parent attend the planning conference?

The conference may be conducted without the parent present. However, the parents must be notified five days in advance of their opportunity to attend the conference. If it is not possible for the parents to attend, other alternatives such as individual or conference telephone discussions must be attempted. In any event, Phase II of the IEP must be completed within 30 days of the date which the programs and services were initiated.

REVIEW

What is the annual review?

The annual review is a review of the status of each pupil thought or known to have a handicapping condition, conducted by the COH at least once each year for the purpose of recommending continuation, change or termination of the existing program.

What is the projected date of review?

The projected date of annual review is a date designated in Phase I of the IEP for a review of the pupil's need for services. It is the date on which a COH plans to review the pupil's status, barring any unforeseen circumstances which might require a change in the date of review.

Is the annual review the only review that must be conducted?

No. When a school, agency or parent believes an IEP is no longer appropriate, they refer the pupil back to the Committee on the Handicapped for a review which may be earlier than the annual review date.

How early in the school year can an annual review be conducted by the Committee on the Handicapped?

There is no regulation which fixes the time for annual review; the projected date of review is specified in Phase I of the IEP.

What procedures must be followed for an annual review of a pupil's IEP?

A notice must be sent to the parent of an identified handicapped pupil to inform them of their right to participate in developing Phase I of the IEP and to address the COH on the propriety of the recommendations. The parents are then notified of the recommendation to continue, modify or change the pupil's program. Written consent is not required from parents, however, the parents may request a hearing in the event that they disagree with the recommendations of the COH or the determination of the Board of Education.

Are annual reviews subject to the 30 day timeline constraints?

No. The timelines apply only to the evaluation and placement of pupils who are initially referred for special education. Once the child has entered special education, the timelines are established as part of the completed or revised IEP.

POSTSCRIPT

Questions and Answers about Serving the Educationally Handicapped in New York State is published by the New York State Education Department, Office for Education of Children with Handicapping Conditions. The questions addressed in each issue are those frequently asked of various office staff in communications by phone or letter or during monitoring or training visits to regional or local educational agencies and schools throughout the State. The answers are based upon findings in or interpretations of law, regulation, Department policy, or recent court decisions pertaining to the education of handicapped children.

The following issues are currently in print or being developed for statewide distribution, beginning in September of 1981.

Special Edition - The Institution Schools Act
Number 1 - What is Special Education?
Number 2 - Referral, Evaluation and Development of the IEP-Phase I
Number 3 - Program Placement, Planning Conference and Annual Review
Number 4 - What is Due Process?